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JUN 06 2007

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES OF AMERICA	:	Criminal Number: 07-145-ESH
	:	
	:	VIOLATIONS:
	:	
v.	:	Count One:
	:	26 U.S.C. § 7201
	:	(Tax Evasion)
	:	
ITALIA FEDERICI,	:	Count Two:
	:	18 U.S.C. § 1505
Defendant.	:	(Obstruction of U.S. Senate Proceedings)

PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States of America and the defendant, ITALIA FEDERICI, agree as follows:

1. The defendant is competent to enter into this agreement and is pleading guilty freely and voluntarily without promise or benefit of any kind, other than contained herein, and without threats, force, intimidation, or coercion of any kind.
2. The defendant knowingly, voluntarily, and truthfully admits the facts contained in the Factual Basis for the Plea (Attachment A), which is incorporated by reference herein.
3. The defendant agrees to waive indictment by grand jury and plead guilty to the following charges contained in the Information:

<u>Count</u>	<u>Offense</u>
One	Tax Evasion, 26 U.S.C. § 7201; and
Two	Obstruction of U.S. Senate Proceedings, 18 U.S.C. § 1505.

The defendant admits that she is guilty of these crimes, and the defendant understands that she will be adjudicated guilty of these offenses if the Court accepts her guilty plea.

4. The defendant understands the nature of the offenses to which she is pleading guilty, and the elements thereof, including the penalties provided by law. The maximum penalty for violating the offenses specified in the Information is:

- a. Count One (Tax Evasion, 26 U.S.C. § 7201): 5 years of imprisonment; a \$250,000 fine or not more than the greater of twice the gross gain or twice the gross loss; the costs of prosecution; and a mandatory special assessment of \$100.
- b. Count Two (Obstruction of U.S. Senate Proceedings, 18 U.S.C. § 1505): 5 years of imprisonment; a \$250,000 fine; and a mandatory special assessment of \$100.

The defendant further understands that the Court will impose a term of supervised release to follow any incarceration, in accordance with 18 U.S.C. § 3583, and that, in this case, the authorized term of supervised release for each of the counts is not more than three years. If the defendant violates the terms of her supervised release, then the defendant may be sentenced to not more than an additional two years of imprisonment. Additionally, the defendant understands that the Court will impose restitution and that the Court may also impose the costs of incarceration, supervision, and prosecution.

5. It is understood that restitution is due in the amount of \$77,243 plus interest. Defendant will sign a restitution order agreeing that the defendant shall pay the Internal Revenue Service ("IRS") taxes due and owing for the calendar years 2001 through 2003 in the above amount. Defendant agrees to pay the mandatory special assessment of \$200 (\$100 for each count of conviction) within ten (10) days of sentencing by cashier's check or certified check made

payable to "Clerk, United States District Court for the District of Columbia." Defendant further agrees that her payment of \$77,243 plus interest, for her taxes due and owing for 2001 through 2003, as set forth above, does not compromise the IRS's ability to assess and collect civil taxes and penalties, and she will cooperate and assist the IRS in any civil or administrative proceedings; file any and all outstanding U.S. Individual Income Tax Returns due from her; and pay outstanding taxes due and owing, on terms as agreed to with the IRS as a condition of supervised release.

6. The defendant agrees the Court may order restitution to the IRS pursuant to 18 U.S.C. §§ 3663, 3664, and 3583.

7. If the Court accepts the defendant's plea of guilty, and the defendant fulfills each of the terms and conditions of this agreement, the United States agrees that it will not further prosecute the defendant for any crimes described in the Factual Basis for Plea. Nothing in this agreement is intended to provide any limitation of liability arising out of any acts of violence.

8. The defendant understands and agrees that Federal sentencing law requires the Court to impose a sentence which is reasonable and that the Court must consider the advisory United States Sentencing Guidelines ("Sentencing Guidelines" or "U.S.S.G.") in effect at the time of the sentencing in determining a reasonable sentence. Defendant also understands that sentencing is within the discretion of the Court and that the Court is not bound by this agreement. Defendant understands that the facts that determine the Total Offense Level will be found by the Court at sentencing and that, in making those determinations, the Court may consider any reliable evidence, including hearsay, as well as provisions or stipulations in this agreement. Both parties agree to recommend that the advisory Sentencing Guidelines should apply pursuant to United

States v. Booker, 543 U.S. 220 (2004), and its progeny, and that the final Sentencing Guidelines range of imprisonment as calculated herein provides for a reasonable sentence. Defendant further understands the obligation of the United States to provide to the United States Probation Office all relevant information regarding the defendant, including charged and uncharged criminal offenses.

9. Except to the extent it would be inconsistent with other provisions of this agreement, the United States and the defendant reserve, at the time of sentencing, the right of allocution; that is, the right to describe to the Court fully, both orally and in writing, the nature, seriousness, and impact of the defendant's conduct related to the charges against her or to any factor lawfully pertinent to the sentence in this case. The United States will also advise the Court of the nature, extent, and timing of the defendant's acceptance of responsibility. The defendant further understands and agrees that in exercising this right, the United States may solicit and make known the views of the law enforcement agencies which investigated this matter.

10. The defendant and the United States agree that the following Sentencing Guidelines factors, computation, and analysis applies to this case:

a. The November 2005 Sentencing Guidelines Manual governs the Guidelines calculations in this case. All references in this Agreement to the "Guidelines" or "U.S.S.G." refer to the November 2005 Sentencing Guidelines Manual.

b. The Base Offense Level for the Tax Offense (Count One: Tax Evasion, 26 U.S.C. § 7201) is 14, pursuant to U.S.S.G. §§ 2T1.1(a)(1), 2T4.1(E). The Base Offense Level for the Obstruction Offense (Count Two: Obstruction of U.S. Senate Proceedings, 18 U.S.C. § 1505) is also 14, pursuant to U.S.S.G. § 2J1.2(a).

c. The parties stipulate that the Tax Offense (Count One) and the Obstruction Offense (Count Two) are “closely-related counts” and thus constitute one “Group” pursuant to U.S.S.G. §§ 3D1.2(c), 3D1.3(a), and 3D1.4 (one unit; no increase in offense level), resulting in a Combined Offense Level of 14.

d.. The defendant’s sentence is determined as follows:

- i. Combined Offense Level 14
- ii. Anticipated Adjustment for Acceptance of Responsibility,
U.S.S.G. § 3E1.1(a) -2
- iii. Total Offense Level 12

Assuming a Criminal History Category of I, the Sentencing Guidelines range for a Total Offense Level 12 is 10 to 16 months (Zone C)

e. As indicated in the preceding paragraph, the United States agrees that it will recommend that the Court reduce by two levels the Sentencing Guideline applicable to the defendant’s offense pursuant to U.S.S.G. § 3E1.1(b) (“Acceptance of Responsibility”), based upon the defendant’s recognition and affirmative and timely acceptance of personal responsibility. The United States and the defendant further agree that the United States will not ask that the defendant be detained pending sentencing. However, the United States will not be required to make any recommendation specified herein if the defendant: (1) fails to admit a complete factual basis for the plea at the time the defendant is sentenced or at any other time; (2) challenges the factual basis for the guilty plea at any time after the plea is entered; (3) denies involvement in the offense; (4) gives conflicting statements about that involvement or is untruthful with the Court, the United States, or the Probation Office; (5) fails to give complete and accurate information about the defendant’s financial status to the Probation Office;

(6) obstructs or attempts to obstruct justice prior to sentencing; (7) has engaged in conduct prior to signing this plea agreement which reasonably could be viewed as obstruction or an attempt to obstruct justice, and has failed to fully disclose such conduct to the United States prior to signing this plea agreement; (8) fails to appear in court as required; (9) after signing this plea agreement, engages in additional criminal conduct; or (10) attempts to withdraw her plea of guilty. If the United States does not recommend a reduction under Section 3E1.1(b), then the United States may recommend any sentence within the range for a Total Offense Level 14, subject to the provisions set forth in Paragraph 11 below.

f. The defendant understands that her Criminal History Category will be determined by the Court after the completion of a Pre-Sentence Investigation by the Probation Office. The defendant acknowledges that the United States has not promised or agreed that the defendant will or will not fall within any particular Criminal History Category and that such determinations could affect her Sentencing Guidelines range and/or offense level as well as her final sentence.

11. The parties agree that the defendant may seek and advocate for a departure or variance pursuant to 18 U.S.C. § 3553, provided that the Sentencing Guidelines applicable to the defendant are calculated as set forth above in Paragraph 10, or are higher. The United States reserves the right to object to any such request. Moreover, the United States agrees that it will not seek or advocate for a departure or variance, provided that the Sentencing Guidelines applicable to the defendant are calculated as set forth above in Paragraph 10. If the defendant fails to comply with any of the terms and conditions set forth in this agreement, the United States

may move for enhancements or upward departures or variances based on any grounds the United States deems appropriate.

12. The parties agree that U.S.S.G. § 5E1.2(a) provides that the Court shall impose a fine, unless the Court finds that the defendant is unable to pay a fine. Pursuant to the Fine Table contained in U.S.S.G. § 5E1.2(c)(3), an Offense Level of 12 provides a fine range of between \$3,000 and \$30,000.

13. The United States cannot and does not make any promise or representation as to what sentence the defendant will receive or what fine or restitution the defendant may be ordered to pay. The defendant understands that the sentence in this case will be determined solely by the Court, with the assistance of the United States Probation Office, and that the Court may impose the maximum sentence permitted by the law. The Court is not obligated to follow the recommendations of either party at the time of sentencing. The defendant will not be permitted to withdraw her guilty plea regardless of the sentence recommended by the Probation Office or the sentence imposed by the Court.

14. The defendant agrees to cooperate fully in this and any other case or investigation with attorneys and investigators for the United States by providing truthful and complete information, evidence, and testimony, if required, concerning any matter. The defendant understands that if she makes material false statements intentionally to law enforcement, commits perjury, suborns perjury, obstructs justice, or commits any other crime, she may be found to have breached this agreement, and nothing in this agreement precludes the United States of America or any other law enforcement authority from prosecuting her fully for those crimes or any other crimes of which she may be guilty and from using any of her sworn or unsworn

statements against her. The defendant understands that this plea agreement is explicitly dependent upon her providing completely truthful testimony in any trial or other proceeding, whether called as a witness by the United States, the defense, or the Court.

15. Further, in the event that the United States determines in its exclusive discretion that the defendant has fully complied with this agreement and provided “substantial assistance” to attorneys and investigators for the United States in the investigation and prosecution of others, the United States agrees it will file a motion for a downward departure pursuant to U.S.S.G. § 5K1.1. Such assistance by the defendant shall include her cooperation in providing truthful and complete testimony before any grand jury and at any trial or hearing as requested by the United States and in interviews by attorneys and investigators for the United States. If the United States files a motion under U.S.S.G. § 5K1.1, both parties will have the right to present facts regarding the defendant’s cooperation in any judicial district and to argue for the extent of the departure that is appropriate based on the defendant’s cooperation. However, the defendant further understands that the decision whether to depart, and the extent of any departure for substantial assistance, is the exclusive province of the Court, and that there is no representation by the Government as to what degree, if any, the Court will depart. Furthermore, it shall not be a basis to withdraw from the plea agreement if the Government does not make a motion for downward departure or the Court does not depart from the appropriate Guidelines range or mandatory minimum, or does not depart downward to the defendant’s satisfaction.

16. The defendant, knowing and understanding all of the facts set out herein, including the maximum possible penalty that could be imposed, and knowing and understanding her right to appeal her conviction and sentence as provided in 18 U.S.C. § 3742, and to challenge

the conviction and sentence in any post-conviction proceeding, including a proceeding under 28 U.S.C. § 2255, hereby expressly waives the right to appeal her conviction and/or any sentence within the maximum provided in the statutes of conviction, or the manner in which that sentence was determined and imposed, including on the grounds set forth in 18 U.S.C. § 3742, in exchange for the concessions made by the United States in this plea agreement. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b).

17. If the defendant fails to comply with any of the terms and conditions set forth in this agreement, the United States may fully prosecute the defendant on all criminal charges that can be brought against the defendant. With respect to such a prosecution:

a. The United States may use any statement that the defendant made pursuant to previous proffer agreements or this agreement, including the statements made in the attached factual basis and/or during the plea colloquy, or any leads derived therefrom, and the defendant shall assert no claim under the United States Constitution, any statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal Procedure, or any other Federal Rule, that the defendant's statements pursuant to this agreement or any leads derived therefrom should be suppressed or are inadmissible;

b. The defendant waives any right to claim that evidence presented in such prosecution is tainted by virtue of the statements the defendant has made; and

c. The defendant waives any and all defenses based on the statute of limitations with respect to any such prosecution that is not time-barred on the date that this agreement is signed by the parties.

18. If a dispute arises as to whether the defendant has knowingly committed any material breach of this agreement, and the United States chooses to exercise its rights under Paragraph 17, at the defendant's request, the matter shall be submitted to the Court for its determination at an appropriate proceeding. At such a proceeding, the defendant's disclosures and documents shall be admissible, and the United States shall have the burden to establish the defendant's breach by a preponderance of the evidence.

19. The parties agree that if the Court does not accept the defendant's plea of guilty, then this agreement will be null and void.

20. The defendant understands that this agreement is binding only upon the Criminal Division and the Tax Division of the United States Department of Justice. This agreement does not bind any other prosecutor's office or agency. It also does not bar or compromise any civil or administrative claim pending or that may be made against defendant.

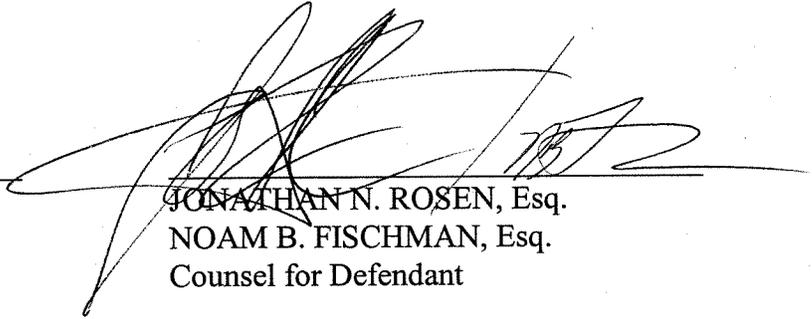
21. This agreement and the attached Factual Basis for Plea constitute the entire agreement between the United States and the defendant. No other promises, agreements, or representations exist or have been made to the defendant or the defendant's attorneys by the Department of Justice in connection with this case. This agreement may be amended only by a writing signed by all parties.

FOR THE DEFENDANT:

Dated: June 5th, 2007



ITALIA FEDERICI
Defendant



JONATHAN N. ROSEN, Esq.
NOAM B. FISCHMAN, Esq.
Counsel for Defendant

FOR THE UNITED STATES:

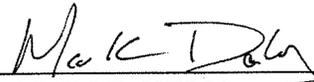
Dated: June 5, 2007

WILLIAM M. WELCH, II
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United States Department of Justice
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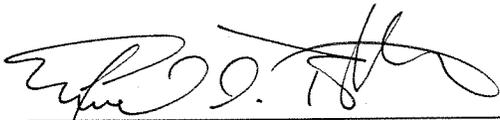
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